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**IN THE SUPREME COURT  
STATE OF ARIZONA**

|                          |   |                             |
|--------------------------|---|-----------------------------|
| In the Matter of:        | ) |                             |
| PETITION TO AMEND        | ) | Supreme Court No. R-16-0042 |
| RULE 34, RULES OF        | ) |                             |
| <u>THE SUPREME COURT</u> | ) |                             |

Pursuant to Rule 28, Rules of the Arizona Supreme Court, the Attorney Regulation Advisory Committee (ARC), respectfully submits comments in opposition to the above referenced Petition to Amend Rule 34, Rules of the Supreme Court (“Petition”).

ARC formed a subcommittee to review the Petition. As a result of those meetings, members developed this comment, approved by ARC at their March 1, 2017 meeting.

Concord Law School at Kaplan University (CLS) has asked the Arizona Supreme Court to amend its rules to permit graduates from an online law school approved by one of the six regional accreditors federally recognized by the United States Department of Education to sit for the Arizona Bar Examination.

CLS indicates that it “is regionally accredited by the Higher Learning Commission, a federally recognized regional accreditor, through Kaplan University.”

The arguments advanced by CLS in support of its Petition include the following:

1. CLS admits a lower percentage of applicants than nearly half of the ABA-accredited law schools.

2. During the most-recent administration of the California bar exam (at the time of CLS’ petition, the February 2016 administration of that exam), CLS graduates’ first-time pass rates were within nearly one point of those of California ABA-accredited law schools, and were a point higher than those of out-of-state ABA-accredited law schools.
3. Allowing CLS graduates to sit for Arizona’s bar examination “would create new opportunities for the state’s citizens, as well as expand access to legal services in underrepresented areas.”

The Attorney Regulation Advisory Committee (ARC) has reviewed CLS’ pPetition and has the following concerns.

1. CLS has not provided adequate information to support an “apples to apples” comparison of its admission standards to those of all or any subset of ABA-accredited law schools.

2. CLS has not provided adequate information as to its efforts to obtain accreditation through the American Bar Association.

3. CLS has not provided adequate information concerning its stand-alone accreditation by the Higher Learning Commission. It appears to claim accreditation by the commission solely by force of its affiliation with Kapan University. CLS has provided no information concerning the implications of the approval of its Petition. Does the other online law school identified by CLS as being a part of an institution accredited by a federally recognized regional accreditor (St. Francis School of Law) maintain the same admission, educational standards, and bar passage rates as CLS? Will allowing the graduates of that online law school create new opportunities for Arizona citizens and expand access to legal services in underrepresented areas?

4. CLS indicates that its applicants are not required to provide a score on the Law School Admission Test when considered for admission to its program. CLS has not provided adequate information as to its use of any comparable testing mechanism to ensure its applicants have a reasonable chance of successfully completing its program if admitted (and to pass the California Bar Examination upon graduation from CLS).

5. CLS has not provided adequate information as to the first-time taker and overall pass rates of its graduates on the California Bar Examination. CLS should have that information readily available from the date its graduates have first qualified to sit for the California Bar Examination to date. It should provide a comparison of those rates to ABA-accredited law school graduates, the graduates of California's accredited

law schools, and the graduates of California's other registered, but unaccredited, law schools. CLS has not provided adequate information as to its attrition rates and the success of its students on the California First Year Law Student Examination (and compared to other registered, but unaccredited, law schools in California).

6. CLS has not provided adequate information as to the extent to which allowing its graduates to sit for Arizona Bar Examination will create new opportunities for Arizona citizens and expand access to legal services in underrepresented areas. CLS has provided no information as to how many Arizonans have graduated from its program, how many are currently enrolled, and how many of its graduates have expressed a concrete interest in practicing law in underrepresented areas in Arizona.

7. CLS has not provided adequate information to compare its program of study to the standards required of ABA-accredited law schools, separate and apart from the current ABA limitation of no more than 15 units of study allowed to be earned via distance learning.

ARC recommends the Arizona Supreme Court deny the Petition based on its failure to provide adequate information to support it. Adequate information is required before the committee can address the actual merits of what CLS has proposed.

ARC's position on CLS' Petition should not be interpreted as opposition to the use of distance learning tools in law schools. The current limitation of fifteen hours of such study at ABA accredited law schools may well be too restrictive.

The ABA has granted one accredited law school a variance from that restriction and further experimentation in enhancing legal education through distance learning appears to ARC to be a very worthwhile endeavor.

ARC respectfully requests the Supreme Court reject the modifications as proposed in R-16-0042.

RESPECTFULLY SUBMITTED this 17th day of May, 2017.

By /s/ David W. Lunn  
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